

Overstreet, Greg (ATG)

From: Cook, Amy F. (MIL)
Sent: Wednesday, January 11, 2006 5:29 PM
To: ATG WWW Public Records Requests
Cc: Overstreet, Greg (ATG)
Subject: Model Rules Comments

Overall – the intent of the model rules is good.

In the first section, the draft states that the goal of the model rules is to “**establish a culture of compliance among agencies**” (page 1, paragraph 1)

Recommended Revision: “standardize best practices throughout the state”

In the third section – the draft sets out the permissive nature of rules:

“**WAC 44-14-00003 Model rules and comments are nonbinding.** The model rules, and the comments accompanying them, are advisory only and do not bind any agency. Accordingly, many of the comments to the model rules often use the word "should" or "may" to describe what an agency or requestor is encouraged to do. The use of the words "should" or "may" are permissive, not mandatory, and are not intended to create any legal duty.”

Recommended Revision: Change the tone of the document, and the organization to distinguish requirements from best practices.

For example – the statements: “An agency should post its index on its website” and “A state agency must adopt a rule governing its index.” When compared with RCW 42.17.260(5), which actually states: “Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records...” (which would appear to be applicable only if your agency is required to make an index)

The idea to implement model rules is a good one. My concern is that the document will levy more requirements on state agencies than the statute does and the model rules will become another tool for some public records requestors to complain that we are not following publish rules with regard to public disclosure requests.

Amy

Amy F. Cook
Public Records Officer

*"Progress involves risks...
You can't steal second and keep your foot on first."*

Frederick Wilcox

Washington Military Department
Building 1/MS: TA-20/Box 5003
Camp Murray, WA 98430-5003
Direct: (253) 512-8108
Facsimile (253) 512-8497
Amy.Cook@mil.wa.gov

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